

IN RE: 18 USC § 4248 - "AS APPLIED" TREATMENT

TO: THE HONORABLE TERRENCE W. BOYLE, U.S. DISTRICT JUDGE

FILED

Dear Judge Boyle,

NOV 2 2010

DENNIS P. IAVARONE, Clerk
US DISTRICT COURT, E.D. MO.
BY DEF. CLK

Sir, I am writing to inform you of various actions I am being forced to endure, unchecked, even after your March 31, 2010 decision in Timms v. Jones No. 5:08-HC-2160-BO in which § 4248 "as applied", in all aspects are in fact criminal.

Enclosed, you will find a copy of the "Former Complaint" to Mr. Tracy Johns, Warden, in the above titled complaint.

I am, once again in Solitary Confinement, as one incident report for "Introduction of a Non-hazardous Tool" was issued to me after refusing to receive legal mail on 10/12/10. The "General Affidavit" I sent to Andrew Shipp is as follows, verbatim;

"GENERAL AFFIDAVIT"

For Submission To Disciplinary Hearing Officer, Mr. Elsie.

I was taken from the lunch meal on 10/12/10 by Secretary Janet Walker to the ISU area for legal mail. This has never happened before so I immediately knew something was going on, some type of set-up. As soon as we entered the old mail room I informed J. Walker and Mrs. Gregory. I refused this package. She, (Mrs. Gregory) wrote on the legal mail log. I refused

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this legal mail, but then proceeded to open the package and stated "you cannot have metal clips." I again stated "I have refused this legal mail, why are you opening it and not returning it?" J. Walker stated, "Shut up, its yours, we're not sending anything, anywhere, but you to the hole". I was taken to the door and ordered to sign that it was opened in my presence, but I refused to do so, and said, "I refused it before you opened it". I was then escorted to the Maryland Unit by Ofc Shaw. Shortly thereafter Bill Lee, Sgt. Fernandez, J. Walker, and Ofc Shaw came to my room & stated I was being placed in SHU. After requesting the telephone, Ofc ~~Shaw~~ in SHU, said S.I.S. had told him not to give me the phone even before I had seen any type of UOC or DHO to prevent me from contacting legal counsel.

THE ABOVE STATEMENT IS MADE TO THE BEST OF MY
KNOWLEDGE AND BELIEF UNDER PENALTY OF PERJURY 18 USC §
PERJURY OF PERJURY, THIS 11th Day of October 2010.

Gerald Simms 54002-008
FBI Butts T. - SHU UNIT
P.O. Box 1000
Butts, N.C. 27509

I was before the Unit Disciplinary Committee on October 14th, 2010 and the incident report was referred to the Disciplinary Hearing Officer with recommended sanctions of 30 days disciplinary segregation, and loss of one (1) year e-mail, telephone, visiting and commissary privileges which is outside any guideline range for this type of violation even for a convicted prisoner.

The issue is simply this:

1. I REFUSED THIS LEGAL MAIL.
2. ANY PROCESS OTHER THAN RETURNING THE MAIL TO THE SENDER SHOULD HAVE IMMEDIATELY STOPPED.
3. THE ACT BY THESE STAFF MEMBERS IS RETALIATORY AND ILLEGAL.
4. I HAVE THE RIGHT TO REFUSE ANYTHING, LEGALLY SINCE I AM NOT A CONVICTED PERSON.

- THE RELIEF SOUGHT -

The relief I seek is for this report and sanctions be expunged from my file and all privileges be immediately restored, and if I am still in solitary confinement that Tracy Johns be ordered to immediately release me, upon your receipt of this "letter". I ask that you contact Mr. Johns to ascertain if any of these things has occurred and if so, correct them.

I also request that Secretary Janet Walker
and Mrs. Gregory be disciplined and this incident be
thoroughly investigated, as well as myself and
other detainees be deposed as proof of treatment and
application of this law.

Please respond to this letter.

Respectfully Submitted,

Gerald Simms

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